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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,631	09/30/2003	Kenneth D. Nelson	T-6133 (538-56)	6068
7590 07/12/2007 Michael E. Carmen, Esq. M. CARMEN & ASSOCIATES, PLLC Suite 400 170 Old Country Road Mineola, NY 11501			EXAMINER NILAND, PATRICK DENNIS	
			ART UNIT 1714	PAPER NUMBER
			MAIL DATE 07/12/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/675,631

Applicant(s)

NELSON ET AL.

Examiner

Patrick D. Niland

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-75 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 63-75 is/are allowed.
- 6) ☒ Claim(s) 1-62 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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1. The amendment of 4/9/07 has been entered. Claims are pending.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-11, 14-23, 26-37, 39-40, 42-45, 49-51, and 54-62 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 3140997 Price.

Price discloses compositions falling within the scope of “stable colloidal suspensions” having the instantly claimed components at column 1, lines 9-15 and 55-63, which acidic aqueous media is expected to form the instantly claimed polymolybdates with the claimed molybdenum compounds and to hydrate said polymolybdates, column 2, lines 1-72, particularly 1-5, 19-27, which encompasses the instant claims 3-5, lines 28-47, 55-71, which shows the dispersed molybdate to be hydrated, column 3, lines 27-65 and column 4, lines 15-16, which encompasses the instantly claimed detergents of claims 14-17, column 4, lines 15-24 which shows the dispersant phase to contain the instantly claimed diluent oil, and the remainder of the document. Hydrated polymolybdate will be within the amounts of the instant claims 7-8 since the ketones of the patentee are expected to be soluble in the dispersant phase and therefore not part of the “dispersed phase”. “Colloidal” of the patentee and the similarities in processing indicate that the

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particle sizes and turbidity and clarity of the patentee's dispersions are those of the instant claims 9-11. The methodology of the patentee falls within the scope of the instant claims 18 and 43 and claims 19-23, 26-34, 44-45, 49-51, and 54-62, which depend from claims 18 and 43. The patentee adds their dispersion to lubricating oil to give a composition falling within the scope of that of the instant claims 35-37, 39-40, with claims 40 and 42 being met by the amounts of ketone prior to removal of the ketone.

5. Claims 1-11, 14-23, 26-37, 39-40, 42-45, 48-51, and 54-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 3140997 Price.

Price discloses compositions falling within the scope of "stable colloidal suspensions" having the instantly claimed components at column 1, lines 9-15 and 55-63, which acidic aqueous media is expected to form the instantly claimed polymolybdates with the claimed molybdenum compounds and to hydrate said polymolybdates, column 2, lines 1-72, particularly 1-5, 19-27, which encompasses the instant claims 3-5, lines 28-47, 55-71, which shows the dispersed molybdate to be hydrated, column 3, lines 27-65 and column 4, lines 15-16, which encompasses the instantly claimed detergents of claims 14-17, column 4, lines 15-24 which shows the dispersant phase to contain the instantly claimed diluent oil, and the remainder of the document. Hydrated polymolybdate will be within the amounts of the instant claims 7-8 since the ketones of the patentee are expected to be soluble in the dispersant phase and therefore not part of the "dispersed phase". "Colloidal" of the patentee and the similarities in processing indicate that the particle sizes and turbidity and clarity of the patentee's dispersions are those of the instant claims 9-11. The methodology of the patentee falls within the scope of the instant claims 18 and 43 and claims 19-23, 26-34, 44-45, 49-51, and 54-62, which depend from claims 18 and 43. The

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patentee adds their dispersion to lubricating oil to give a composition falling within the scope of that of the instant claims 35-37, 39-40, with claims 40 and 42 being met by the amounts of ketone prior to removal of the ketone.

It would have been obvious to one of ordinary skill in the art at the time of the instantly claimed invention to use the instantly claimed combinations of ingredients and amounts thereof and the methods of making the instantly claimed compositions because they are encompassed by the patentee and would have been expected to give the benefits disclosed by the patentee. It would have been obvious to one of ordinary skill in the art at the time of the instantly claimed invention to use the acids of claim 48 because they are encompassed by "mineral acids" of column 2, lines 32-35 and would not give the chlorine content not desired by the patentee at column 2, lines 37-42.

6. Claims 1-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 3140997 Price in view of US Pat. No. 4601837 Valcho et al..

Price discloses compositions falling within the scope of "stable colloidal suspensions" having the instantly claimed components at column 1, lines 9-15 and 55-63, which acidic aqueous media is expected to form the instantly claimed polymolybdates with the claimed molybdenum compounds and to hydrate said polymolybdates, column 2, lines 1-72, particularly 1-5, 19-27, which encompasses the instant claims 3-5, lines 28-47, 55-71, which shows the dispersed molybdate to be hydrated, column 3, lines 27-65 and column 4, lines 15-16, which encompasses the instantly claimed detergents of claims 14-17, column 4, lines 15-24 which shows the dispersant phase to contain the instantly claimed diluent oil, and the remainder of the document. Hydrated polymolybdate will be within the amounts of the instant claims 7-8 since the ketones of

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the patentee are expected to be soluble in the dispersant phase and therefore not part of the "dispersed phase". "Colloidal" of the patentee and the similarities in processing indicate that the particle sizes and turbidity and clarity of the patentee's dispersions are those of the instant claims 9-11. The methodology of the patentee falls within the scope of the instant claims 18 and 43 and claims 19-23, 26-34, 44-45, 49-51, and 54-62, which depend from claims 18 and 43. The patentee adds their dispersion to lubricating oil to give a composition falling within the scope of that of the instant claims 35-37, 39-40, with claims 40 and 42 being met by the amounts of ketone prior to removal of the ketone.

It would have been obvious to one of ordinary skill in the art at the time of the instantly claimed invention to use the instantly claimed combinations of ingredients and amounts thereof and the methods of making the instantly claimed compositions because they are encompassed by the patentee and would have been expected to give the benefits disclosed by the patentee. It would have been obvious to one of ordinary skill in the art at the time of the instantly claimed invention to use the acids of claim 48 because they are encompassed by "mineral acids" of column 2, lines 32-35 and would not give the chlorine content not desired by the patentee at column 2, lines 37-42. It would have been obvious to one of ordinary skill in the art at the time of the instantly claimed invention to use the instantly claimed polyalkylene succinic anhydrides as the dispersants of Price because Valcho et al. shows such dispersants to improve the efficiency of molybdenum incorporation into similar dispersions and to improve product clarity at column 2, lines 31-37 and these improvements would have been expected in the compositions of Price.

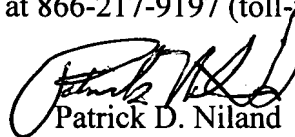
7. Claims 63-75 are allowable over the prior art considered.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick D. Niland whose telephone number is 571-272-1121. The examiner can normally be reached on Monday to Thursday from 10 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Patrick D. Niland  
Primary Examiner  
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